

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1281

AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 35-42-2-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.3. (a) A person who knowingly or intentionally touches an individual who:

- (1) is or was a spouse of the other person;
  - (2) is or was living as if a spouse of the other person as provided in subsection ~~(b)~~; **(c)**; or
  - (3) has a child in common with the other person;
- in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor.

**(b)** However, the offense **under subsection (a)** is a Class D felony if the person **who committed the offense**:

- (1)** has a previous, unrelated conviction:
  - (A)** under this section (or IC 35-42-2-1(a)(2)(E) before its repeal); **or**
  - (B)** in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements described in this section; **or**
- (2)** committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

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~~(b)~~ (c) In considering whether a person is or was living as a spouse of another individual in subsection (a)(2), the court shall review the following:

- (1) the duration of the relationship;
- (2) the frequency of contact;
- (3) the financial interdependence;
- (4) whether the two (2) individuals are raising children together;
- (5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and
- (6) other factors the court considers relevant.

SECTION 2. IC 35-42-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 9. (a) This section does not apply to a medical procedure.**

**(b) A person who, in a rude, angry, or insolent manner, knowingly or intentionally:**

- (1) applies pressure to the throat or neck of another person;**  
or
- (2) obstructs the nose or mouth of the another person;**

**in a manner that impedes the normal breathing or the blood circulation of the other person commits strangulation, a Class D felony.**

SECTION 3. [EFFECTIVE JULY 1, 2006] IC 35-42-2-1.3, as amended by this act, and IC 35-42-2-9, as added by this act, apply only to crimes committed after June 30, 2006.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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